

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of:

Amendment of Section 73.202(b).  
Table of Allotments  
FM Broadcast Stations  
(Two Rivers, Wisconsin and "Counter-Proposed" Mishicot & Denmark, Wisconsin)

RM-8987  
MM Docket No. 97-52

John A. Karousos  
Chief, Allocations Bureau  
Policy and Rules Division  
Mass Media Bureau

To the Commission:

**COMMENTS AND COUNTER-PROPOSAL TO ASSIGN A NEW F M STATION AT  
TWO RIVERS, WISCONSIN**

Comes now, Metro North Communications, Incorporated, an applicant for a new FM radio station at New Holstein, Wisconsin, (hereinafter "Metro") by its Vice-President Donald G. Burcham, with comments to the petition for rulemaking to assign a new FM channel at Two Rivers, WI, as that city's fourth aural service and Metro's Counter-Proposal to assign same to Mishicot, Wisconsin, and proposal to change the "City of License" of Radio Station WGBM-FM (hereinafter "WGBM") Mishicot, Wisconsin to Denmark, Wisconsin, a larger community than Mishicot, which is located closer and midway between the WGBM transmitter site and WGBM studio site. Metro is responding in a timely manner, as detailed in FCC Report Notice of Proposed Rule Making, released February 7, 1997

Mishicot, Wisconsin is an incorporated village, with 1,296 inhabitants. Mishicot

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has it's own Zip Code and Post Office, but relies upon the cities of Manitowoc and Two Rivers for hospital care and library service. It's major employer is a tourist resort.

Moreover, the five radio stations licensed to Two Rivers, and Manitowoc cover Mishicot with a 100% "city-grade" signal contour. The residents of Mishicot are served by these stations with news and information. (WCUB-AM, Two Rivers, WI; WOMT-AM, Manitowoc, WI; WLTU-FM, Manitowoc, WI; WQTC-FM, Manitowoc, WI; and WTRW-AM Two Rivers, WI).

Denmark, Wisconsin, the additional counter-proposed community, is also an incorporated village, has it's own Zip Code and Post Office, and Elementary School, a High School, Churches, Police protection, and is a vibrant community with 1,612 inhabitants. The Lions Club of Denmark is one of the largest in the U.S. with well over 100 members, recently celebrated it's 40th anniversary. Therefore, petitioner states that Denmark qualifies as a "community" for allotment purposes, citing Beech Mountain, North Carolina, 6 FCC Rcd 5835 (1991). It is located in Brown County, and it's major employer is a cheese factory. It currently has no local AM or FM radio service allocated to its' village.

Whereas, Section 307(b) of the Commission's Rules directs that "(e)very community of 'appreciable size' ... is presumed by the Commission to need at least one radio station for local self-expression." Ruarch Associates, 56 RR 2d 1593, para 2 (Rev. Bd. 1984) aff'd, 101 FCC 2d 1358 (1985) (emphasis added). Where a "transmission service disparity already exists, a different presumption applies, namely that the community which has no transmission service has a greater need than the community that already has one (or more)." Id. @ para 5. (emphasis added). However, these are rebuttable presumptions, and the Commission has refused to give very small communities a dispositive Section 307(b) presumption in a multiple party

proceeding. Reeder v. FCC, 865 F.2d 1298 (D.C. Cir. 1989).<sup>6</sup>

Two Rivers, with a population of 13,030 residents, is well-served with news and information from stations licensed to Two Rivers and Manitowoc, including three aural services licensed to Two Rivers presently. The current WGBM transmitter site only puts a “city grade” signal over approximately 87% of the Village of Mishicot. (See Exhibit “E-5”) The licensee of WGBM-FM, Bay Lakes Valley Broadcasters, Incorporated does not maintain a Mishicot address, nor a Mishicot telephone number, a relocation of it’s “city of license” identification to Denmark, Wisconsin is warranted. At the present, WGBM derives less than 5% of it’s advertising base from the Village of Mishicot, yet provides a 100% “city grade” signal over Denmark. The Village of Denmark’s need for a first aural service combined with the Village of Mishicot’s ability to receive a 100% “city grade” signal with the new allocation proposed, does in fact, warrant a dispositive Section 307(b) preference over the fourth aural service as originally proposed to Two Rivers. As additional support to Metro’s counter-proposal, we attach a letter from the members of the Village Board of Mishicot. (See Exhibit “B”) The Village Board directed Mr. James Bydalek, Village Clerk, to write a letter of support for the Mishicot-Denmark proposal, as the current Mishicot licensee has not apparently represented the area well. Additionally, a majority of the stockholders of Metro North Communications, Incorporated either reside in the Village of Mishicot, Wisconsin or within the proposed “city-grade” signal area of same, it is uniquely interested in seeing Mishicot being allowed an independent voice, and would enthusiastically apply for a construction permit for an FM station at Mishicot, if an allocation were made available.

<sup>6</sup> Cf. FM Channel Assignments, 51 RR 2d 25, 29 (1983) (favoring a second assignment to a larger community over a first assignment to a very small community is consistent with the Commission’s mandate to assign frequencies in a fair and efficient manner.

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Moreover, the Mishicot-Denmark proposal presents a more efficient use of the broadcast spectrum because it will serve substantially more area and population than the Two Rivers proposal, which is surrounded on nearly three sides by Lake Michigan. It will also provide a first aural service to Denmark, WI.

<u>Community:</u>	<u>Existing:</u>	<u>Proposed:</u>	<u>Counter-Proposed</u>
Two Rivers, WI	255A	246A, 255A	255A
Mishicot, WI	234A	234A	246A
Denmark, WI	None	None	234A

The Two Rivers proposal should be dropped, without unduly impeding the fair, efficient and equitable distribution of radio service. The Counter-Proposal to allocate Denmark, Wisconsin it's first aural service serves the Public's interest and needs and further allows the Village of Mishicot to have a licensed facility that can also finally provide 100% "city grade" coverage to the Village.

Since it is unclear whether "First Congregational Services" the petitioner in this request, could represent a religious or non-profit applicant, First Congregational may be seeking a non-commercial FM station in the commercial portion of the FM band.

Therefore, Metro respectfully requests, in light of the above mentioned prior case law, that the Commission amend it's FM table of allotments to allot Channel 255A to Mishicot, Wisconsin at the coordinates of North Latitude 44 - 10 - 24 and West Longitude 87 - 33 - 38, (See Exhibit "A") and that if such window of opportunity exists to apply for same, Petitioner will apply for same. Metro also respectfully requests the assignment of Channel 234A be granted to the Village of Denmark as it's first aural service, and that WGBM's city of license be changed to identify that community.

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I hereby certify, that I have read this entire document, and to the best of my knowledge, information and belief, that the foregoing statement is true and correct, that there is good and sufficient reason to support same, and that it is not submitted for delay.

Respectfully submitted,

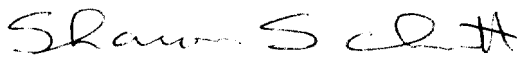


Donald G. Burcham, Vice-President  
Metro North Communications, Incorporated  
P.O. Box 105  
New Holstein, WI 53061-0105  
(414) 755-2305

March 26, 1997.

(seal)

Subscribed and Sworn Before Me this 26<sup>th</sup> day of March, 1997.



Notary Public. My commission expires 12 / 20 / 98 .

# EXHIBIT "A".

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03-24-1997

Metro North Communications, Incorporated  
P.O. Box 105  
New Holstein, WI 53061-0105  
FM FREQUENCY ALLOCATION STUDY

Channel: 246A ( 97.1 MHz)  
Coordinates: 44 - 10 - 24 87 - 33 - 38  
Job Title: WTRW- TWO RIVERS-MISHICOT, WI

6 KW ERP  
100 M HAAT  
% indicates 73.215 facility  
C1.A Spacing: 73.207

CALL STATUS	% CITY STATE	CH/CL-ZN FCC#	ERP-kw APPLICANT/LICENSEE	HAAT-m DA	LATITUDE LONGITUDE	BEAR-to -from-T	DIST-km CLEAR-km	REQ -km
USED	Algoma WI	244C3 >			44 38 08 87 37 37	354.2 174.1	51.6 +10.1	41.5 CLEAR
WBDK LIC	Algoma WI	244C3 BLH930106KD	25.0 > Nicolet Broadcasting	86	44 38 52 87 33 54	359.6 179.6	52.7 +11.2	41.5 CLEAR
WUSW LIC	Oshkosh WI	245A BLH911129KB	6.0 > Odon Communications	100	44 06 01 88 32 02	264.4 83.7	78.3 +6.8	71.5 CLEAR
USED	Oshkosh WI	245A 89-282			44 06 36 88 30 18	265.0 84.3	75.9 +4.4	71.5 CLEAR
WGLQ LIC	Escanaba MI	246C BLH820713AB	100.0 > MW Multicom Inc.	326	46 08 04 86 56 52	12.2 192.6	223.2 -2.3*	225.5 SHORT
WLTQ LIC	Milwaukee WI	247B BLH840925DP	15.5 > Hearst Corporation	278	43 06 41 87 55 38	194.2 13.9	121.6 +9.1	112.5 CLEAR

>> \* CHANNEL SHORT-SPACED; RELOCATION MAY BE POSSIBLE <<

# Village of Mishicot

## State of Wisconsin

Exhibit "B"

Incorporated 1950

Manitowoc County

442 E. Main St. • P.O.Box 385  
Mishicot, Wisconsin 54228-0385  
Telephone: (414) 755-2525  
Fax: (414) 755-2525

March 19, 1997

To Whom It May Concern:

The Mishicot Village Board wishes to encourage the Federal Communications Commission to seriously consider allocating a new FM frequency to Mishicot, Wisconsin, as well as moving the existing assignment of Radio Station WGBM-FM to Denmark, Wisconsin. The board continues to be very disappointed that when Mishicot received it's first FM channel the licensee did not make any type of investment in our community.

The owner of WGBM-FM did not locate his studio in Mishicot and located his tower site at Denmark, Wisconsin so far away that the Village of Mishicot does not enjoy a 100% "city-grade" signal over our Village. To this day, the owner of WGBM-FM does not even have a Mishicot Post Office box address or a local Mishicot telephone number. The address of WGBM-FM is in Green Bay and so is their telephone number.

The Village Board firmly believes that Mishicot deserves a real commitment towards the community in a radio station and we are asking for serious consideration towards allocating the frequency of 97.1 MHz to Mishicot, Wisconsin. Should you have any questions on the Village Board's concerns please feel free to contact me and I will bring them to their immediate attention.

Sincerely,



James Bydalek  
Village Clerk

pc: Radio Station WGBM

APPLICANT: Value Radio Corporation  
(New FM) Channel 4298A  
Mishicot, Wisconsin

EXHIBIT: E-5

Prepared 06/01/91

The facility proposed by this Application does not satisfy the requirements of 47 Code of Federal Regulations, Sections 73.315(a).

A minimum field strength of 70 dB above one uV/m (dBu), or 3.16 mV/m, won't be provided over the entire principal community to be served, the village of Mishicot, Wisconsin.

Exhibit E-8, Part 2, which follows herein, displays the Corporate Boundary of the village of Mishicot, Wisconsin, in relation the 3.16 mV/m predicted service contour of the Applicant's proposed station.

A study conducted determined 87% of the land area of the village of Mishicot, and 96.32% of the village population shall receive the requisite 3.16 mV/m (City Grade) minimum field strength.

In accordance with current Commission policy, more than eighty per-cent (80.0%) of Mishicot, Wisconsin, shall be provided a minimum field strength of 70 dB above one uV/m (dBu), or 3.16 mV/m.

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EXHIBIT E-5; CONCLUDED

EXHIBIT "E-5" EXHIBIT FROM 1991 SHOWING THAT CURRENT MISHICOT, WI FM CANNOT PROVIDE 100% CITY GRADE COVERAGE (Waiver of Section 73.315(a) Requested)
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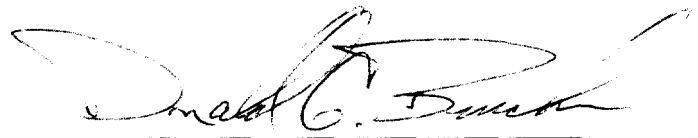


CERTIFICATE OF SERVICE

I, Donald G. Burcham, Vice-President of Metro North Communications, Incorporated, do hereby certify that I have caused to be served, this \_\_\_\_\_ day of March, 1997, by First-Class mail, postage prepaid, a copy of the foregoing "COMMENTS AND COUNTER-PROPOSAL TO ASSIGN A NEW F M STATION AT TWO RIVERS, WISCONSIN" to the following:

Henry E. Crawford  
1150 Connecticut Avenue, N.W.  
Suite # 900  
Washington, DC 20036 (Counsel for First Congregational Services)

Mr. Phil Robbins  
Bay Lakes Valley Broadcasters, Incorporated  
c/o Radio Station WGBM-FM  
2733 Manitowoc Road  
Green Bay, WI 54311 (Licensee of WGBM-FM, Mishicot, WI)

  
Donald G. Burcham